Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

IN RE: JAMES LEE MARTIN

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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ISSUES PRESENTED FOR REVIEW

A. May an attorney, who requests a hearing, be subject to law license revocation, suspension, or disbarment, without a hearing, if the attorney requests a hearing, and if the attorney is not the subject of any complaints about misconduct?

B. May a federal attorney maintain federal bar admission, without regard to whether the federal attorney is a current members of a state bar, as long as the federal attorney has an unblemished, lifetime record?

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CITATIONS OF REPORTS OF ORDERS ENTERED BY THE COURT

The Eighth Circuit Order of January 26, 2005 is unpublished and is attached here to at Appendix (App.) p. 1a. The Eighth Circuit Order of February 14, 2005 is unpublished and is attached here to at App. p. 2a. The Eighth Circuit Order of June 20, 2005 is unpublished and is attached here to at App. p. 3a.

STATEMENT OF THIS COURT'S JURISDICTION

The judgment to be reviewed was issued on 1-26-05, at App. 1a, and the petition for rehearing, and suggestion for rehearing *en banc*, was denied on 2-14-05, at App. 2a. A Motion for Stay pending certiorari was denied on 6-20-05, at App. 3a. The time for filing a petition for a writ of certiorari was extended to 7-14-05, but order issued on 5-3-05. This Court's jurisdiction for review is at 28 USC Sec. 1254(1).

AUTHORITY RELIED UPON

F.R.A.P. 46(b) *Suspension or disbarment.* ". . . after hearing, if requested, ..."

STATEMENT OF THE CASE

Basis for federal jurisdiction in the court below. The Court of Appeals has original jurisdiction pursuant to F.R.A.P. 46(b), only upon proof that an attorney is

"guilty of conduct unbecoming a member of the bar of the court."

Facts. Joseph Farrell, an attorney who purported to represent Mark E. Martin to appeal the decision in a will contest filed in the Lebanon County Court of Common Pleas in Pennsylvania, sought to discredit me by telling Donald Bailey, attorney for me and others, that I was not admitted to practice law. I got recent Certificates of Good Standing from some of the courts I was admitted to, including the Eighth Circuit Court of Appeals. In a letter dated 11-29-04, Mr. Farrell asked Clerk Michael Gans to check the admissions records to ascertain whether I was admitted to practice. Clerk Gans, without informing me about the letter from Farrell, issued a notice to me, dated 12-14-04, and requested ". . . a written response with the Clerk . . . and show cause why his [my] membership in this bar should not be revoked."

I responded with a demand for hearing in accord with F.R.A.P. 46(b):

> 1. Although the Rules of Attorney Disciplinary Enforcement likely do not apply, because I am not responsible for alleged "mistakes" that are made incident to bar admission, to the extent such Rules are deemed to apply, I hereby demand a hearing, but only if neither the Motion to Stay nor the Motion to Dismiss is granted.
>
> 2. I reserve the right to amend and to supplement this request with a request to subpoena witnesses as well as to compel

> the production of any document relevant to the defense of misconduct directed against unnamed admissions clerk(s), for whose negligence or deliberate misconduct I am being charged with, even though I have no responsibility for them.

In a decision on 1-26-05, the Eighth Circuit denied my demand for a hearing and disregarded the basic provisions governing revocation, suspension, and disbarment without notice, hearing, or cause. Because the notice to show cause did not relate to any misconduct on my part, it was patently malicious and frivolous.

Farrell, who misrepresented the circumstances surrounding PA state trial judge Kline's secret directive to intentionally and materially alter a court transcript for a proceeding where Farrell was present, also misrepresented to the state court the person he was purporting to represent in court. His entry of appearance says "Mark E. Martin," but he claims to be representing the "Estate of Josephine A. Martin." Because Mark E. Martin tried to appropriate the entire Estate for himself, but failed at trial, the same attorney is not eligible to represent both Mark Martin and the Estate. I pointed out this obvious conflict of interest in the state proceedings. Farrell's efforts to interfere with my standing to practice in some other federal courts have not been successful.

For more than twenty (20) years, some state and federal courts have been claiming that my admission to the state bar may be disregarded, because they claimed it was a "mistake" they made. Although I have an

unblemished lifetime record, with no grievances ever filed against me, some Admissions Clerks have been revoking my bar admissions without notice, hearing, or cause.

Delaware trial Judge Farnan's decisions set the foundation for disinformation about me to be exported from the law school I attended, to various state and federal bars. Judge Farnan's paid employment at the same law school should have resulted in his immediate recusal. Instead, Farnan lied about his nexus with the law school.

My most recent editorial about lying Judge Farnan appeared in the 03/10/2005 *Wilmington News Journal*, and reads as follows:

> Judge Farnan's business associates are suspicious
>
> The level of potential judicial talent to draw from in Delaware is high enough to dispense with judges like Joseph J. Farnan Jr. His extrajudicial conduct raises issues about his character to preside as a judge. Even if experts in legal ethics are satisfied with unverified explanations about strange coincidences surrounding his involvement with criminals and alleged criminals, Delaware deserves judges whose business practices are above suspicion. Judge Farnan does not meet the standard.

Reporter Toutant's 11-8-04 article in the *New Jersey Law Journal*, about Mary Maudsley, describes

her lies to her own clients, her legal malpractice, and her agreement to pay $100,000 to defray the losses she caused her clients. Maudsley, ironically enough, was Chair of the Disciplinary Review Board when her malpractice occurred. Whether she is suspended or disbarred remains to be seen. Years ago, when I was admitted to practice in NJ, Maudsley was a panel member on the Character Committee, and involved in falsifying my testimony to make the transcript read as if I were mentally unbalanced. I saw an internal memo from the NJ Supreme Court, casually left in open view during a break, that concluded I was ineligible for state bar admission before anyone said anything. However, by the time the hearing began, I had already been formally admitted to practice, and had been issued a Certificate of Good Standing.

RELATED CASES

In the Interest of: Estate of Josephine A. Martin, No. 1417 MDA 2004, PA Super., Pet. for Allow. of Ap. pending before PA Supr.

In Re James L. Martin, No. 05-1226, Fed. Cir., ap. from Ct. of Int'l Trade, pending.

James L. Martin and Ann L. Martin v. Samuel Kline, et. al., 04-532, *cert. den.*, 11-29-04.

REASONS THE WRIT SHOULD BE GRANTED

A. The Court is without authority to suspend or disbar an attorney, or to revoke an attorney's admission, without a hearing if it is requested.

Rule 46 governs eligibility for admission to the bar, as well as suspension or disbarment. No provision appears anywhere for "revocation," a transparent ploy to deprive an attorney of the safeguards supposed to be afforded during a "hearing, if requested." FRAP 46(b) and (c). I requested a hearing, but the Court denied my request without any lawful basis for doing so.

B. FRAP 46(a) and Fed. Cir. R. 46(a) allow federal attorneys to be admitted to federal courts, without regard to whether they are active members of any state bar.

See *Surrick v. Killion, et. al.*, No. 04-5668, ED, PA, (CJ Giles). Former PA state attorney Surrick was suspended for thirty months from the federal court for accusations held to be unfounded about case-fixing among some judges in Pennsylvania, and after his suspension period expired, he was reinstated to the federal court but remains suspended before the state court. Judge Giles addressed the question about whether a federal court is bound by the decision of a state court regarding the standing of an attorney to practice: "The federal law at issue in the present action is the inherent power of each federal court to regulate and control its own bar. See 28 USC Sec. 2071 (2000), ..." A decision from the state court, about whether an attorney is admitted or not, is not binding on the federal courts. Theard v. United States, 354 US 278

(1956). The state court decision is entitled to deference unless: (1) the state did not provide notice and an opportunity to be heard; (2) the proof of facts for the "want of fair private and professional character" were so infirm the court should not accept the state's decision; or (3) another grave reason prevents fair recognition of the state's decision. Selling v. Radford, 243 US 46, 51 (1916).

The state procedure by which my standing in the Pennsylvania and New Jersey state bars was "revoked" afforded neither (1) notice nor opportunity to be heard; (2) nor allegations of any misconduct on my part. The state determinations resulted from these state courts' customary *modus operandi*, whose judges were subsequently exposed or ousted, or both, for their criminal corruption.

CONCUSION

Certiorari should be granted to resolve the conflict among the circuits, and to address summary disbarments without notice, hearing, or cause.

Respectfully submitted,

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No. 04-9033

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

In re James Lee Martin

ORDER ON ATTORNEY DISCIPLINE

Before LOKEN, Chief Judge, WOLLMAN, MORRIS S. ARNOLD, MURPHY, BYE, RILEY, MELLOW, SMITH, COLLOTON, GRUENDER, and BENTON, Circuit Judges

On December 14, 2004, this Court entered an order directing James Lee Martin to show cause why his membership in the bar of the Eighth Circuit Court of Appeals should not be revoked. In response, Mr. Martin filed a Motion for Stay, a Motion to Dismiss, and a Demand for Hearing. Having considered these motions, the Court hereby orders that each motion be denied and that Mr. Martin's membership in the bar of this Court be revoked.

January 26, 2005

Order Entered at the Direction of the Court
/s/
Clerk, U.S. Court of Appeals, Eighth Circuit